

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DAWN ANGIOINE, et al.,

Plaintiff,

v.

Civil Action No. 3:21-cv-344

NATIONAL COUNSELING GROUP, INC., et al.,

Defendant.

ORDER

Having reviewed the JOINT MOTION FOR FINAL APPROVAL OF SETTLEMENT OF FAIR LABOR STANDARDS ACT COLLECTIVE ACTION (ECF No. 35); the supporting memorandums consisting of the JOINT MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION FOR FINAL SETTLEMENT APPROVAL (ECF No. 36) and PLAINTIFFS' STATEMENT IN SUPPORT OF PRELIMINARY APPROVAL OF ATTORNEYS' FEES AND COSTS AND INCENTIVE PAYMENTS SET FORTH IN THE JOINT MOTION FOR FINAL SETTLEMENT APPROVAL (ECF NO. 43); the declarations filed in support, including the DECLARATION OF SAM J. SMITH IN SUPPORT OF JOINT MOTION FOR FINAL SETTLEMENT APPROVAL (ECF No. 36-1), DECLARATION OF MOLLY A. ELKIN (ECF No. 36-2), and SUPPLEMENTAL DECLARATION OF SAM J. SMITH IN SUPPORT OF JOINT MOTION FOR FINAL SETTLEMENT APPROVAL (ECF No. 40-1); and having held a hearing on September 16, 2021 and a follow-up teleconference hearing on September 30, 2021, it is hereby ORDERED that:

(1) Pursuant to 29 U.S.C. § 216(b), the action is conditionally certified for settlement purposes as a collective action comprising the Therapeutic Day Treatment Counselors ("TDTs") listed on ECF No. 43-2, Ex. 7 ("Potential Opt-in Plaintiffs"); and

(2) The Settlement Agreement (ECF No. 35-1) is preliminarily approved as a fair, reasonable, and adequate resolution of a bona fide dispute (subject to notice and final hearing) and was reached through arms-length negotiations without collusion; and

(3) The form and content of the revised Court Authorized Notice of Collective Action Settlement Under the Fair Labor Standards Act ("Notice") (ECF No.43-1), the Consent to Join Form (ECF No. 35-1, Ex. C), and the Postcard Reminder (ECF No. 35-1, Ex. D) are approved; and

(4) The procedures for distributing the Notice as set forth in the Settlement Agreement are approved; and

(5) On November 15, 2021, the Claims Administrator shall mail, email, and text a copy of the approved Notice and Consent to Join Form to Potential Opt-in Plaintiffs. If any Notice and Consent to Join Form is returned as undeliverable for a Potential Opt-In Plaintiff, the Claims Administrator shall promptly attempt to locate the Potential Opt-In Plaintiff through an electronic search using, as available, the Social Security Number and the last known mailing address on file with Defendant National Counseling Group, Inc. of such Potential Opt-In Plaintiff(s), and will promptly mail and, as

available, email, and text an additional Notice and Consent to Join Form to such Potential Opt-In Plaintiff(s); and

(6) On December 17, 2021, the Claims Administrator shall send the Postcard Reminder to Potential Opt-in Plaintiffs who have not returned their Consent to Join Forms to remind them of the consent to join deadline; and

(7) Potential Opt-in Plaintiffs shall have until January 21, 2022 to join the settlement by submitting a Consent to Join Form to the Claims Administrator ("Claims Bar Date"); and

(8) Potential Opt-in Plaintiffs shall have until January 21, 2022 to object to the Settlement. To object to the Settlement, Potential Opt-in Plaintiffs must file a written objection that includes: (a) their name; (b) their address, e-mail, and phone number; (c) the name of the case and the case number on the front of the envelope and in the letter (Angione et al. v. National Counseling Group, Inc. et al. Case No. 3:21-cv-00344 (REP)); (d) their signature; (e) a detailed statement of the basis for each objection; (f) the grounds on which the objection is based; and (g) if represented by an attorney, the name, address and email of the attorney. The objection must be timely submitted in writing and must be filed with the Court at Clerk of United States District Court for the Eastern District of Virginia, Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse, 701 East Broad Street, Richmond, VA 23219; and copies shall be sent to the Claims Administrator at

address, email, or fax provided for in the Notice and to David Christopher Burton, 222 Central Park Ave., Suite 1700, Virginia Beach, VA 23462; Loren B. Donnell, 9800 4th St. North, Ste. 200, St. Petersburg, FL 33702; Molly Ann Elkin, 1101 Vermont Ave., NW, Suite 1000, Washington, D.C. 20005; Hillary LeBeau, 1101 Vermont Ave., NW, Suite 1000, Washington, D.C. 20005; Edward Stroehmann Schenk III, P.O. Box 1000, Raleigh, NC 27602; Sam Jones Smith, 9800 4th Street North, Ste. 200, St. Petersburg, FL 33702; and Amanda Weaver, 200 South 10th St., Richmond, VA 23219. Any individual who fails to object in the manner prescribed above shall be deemed to have waived his/her/their objections; and, by January 31, 2022, counsel for the plaintiff shall file their responses to the objections; and, by February 14, 2022, objectors shall file reply briefs; and

(9) The Claims Administrator shall establish a website dedicated to the Settlement that will include a copy of the Notice and shall allow Consent to Join Forms to be electronically signed and submitted; and

(10) Not later than January 31, 2022, Consent to Join Forms shall be filed with the Court along with a declaration from the Claims Administrator describing the notice and claims process and results; and

(11) The Claims Administrator shall not mail settlement checks to the Potential Opt-in Plaintiffs who timely return their Consent to Join Forms until further Ordered by the Court; and

(12) By January 31, 2022, Plaintiffs shall file a Motion for Final Settlement Approval including their petition for attorneys' fees and litigation costs and expenses, inclusive of the costs of claims administration; and

(13) The Final Approval Hearing shall be held on February 28, 2022 at 10 AM for the purposes of hearing and deciding the objections and finally determining whether the settlement is fair, reasonable and adequate (including a review of any objections to the settlement, if any), and in the best interests of the settlement class and should be approved by the Court; and

(14) The hearing will take place at the Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse, 701 East Broad Street, Richmond, VA 23219, before the Honorable Judge Robert E. Payne.

It is so ORDERED.

Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: October 8, 2021